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Attorneys for Defendants

MLS Medical Group, LLC

and Mark L. Schwartz, D.O.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

GOVERNMENT EMPLOYEES INSURANCE
CO., GEICO INDEMNITY CO., GEICO
GENERAL INSURANCE COMPANY AND
GEICO CASUALTY CO.,

Plaintiffs,

vs.

MLS MEDICAL GROUP LLC and MARK L.
SCHWARTZ, D.O. a/k/a MARK
SCHWARTS, D.O.,

Defendants.

Civil Action No. 2:12-cv-07281-FSH-PS

**NOTICE OF MOTION TO DISMISS
PLAINTIFFS' AMENDED COMPLAINT**

Filed Electronically

Return Date: March 4, 2013

TO: John Robertelli, Esq.
RIVKIN RADLER LLP
21 Main St., Ste 158
Court Plaza South, West Wing
Hackensack, NJ 07601
Attorneys for Plaintiffs
Government Employees Insurance
Co., GEICO Indemnity Co., GEICO
General Insurance Company and
GEICO Casualty Co.

PLEASE TAKE NOTICE that on March 4, 2013, or as soon thereafter as counsel may be heard, defendants MLS Medical Group, LLC and Mark L. Schwartz, D.O. ("Defendants") shall move before the Honorable Faith S. Hochberg, U.S.D.J., at the Frank R. Lautenberg U.S.

P.O. & Courthouse Building, Courtroom 1, Newark, New Jersey 07101 for entry of an Order dismissing Count I of plaintiffs' complaint pursuant to Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction, dismissing Counts II – V of the Complaint pursuant to Fed. R. Civ. P. 12(b)(6) as to those insurance claims that have already been subject to an arbitration determination because they are barred by the doctrine of collateral estoppel, and dismissing the Complaint pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim and for such other and further relief the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that a copy of a proposed Order and Certification of Service are included with this Notice.

PLEASE TAKE FURTHER NOTICE that in support of the foregoing motion, Defendants shall rely upon the Brief in support of Defendants' Motion to Dismiss submitted herewith.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Civil Rule 7.1, opposition papers, if any, must be served no later than February 19, 2013 and reply papers, if any, shall be served no later than February 25, 2013.

PLEASE TAKE FURTHER NOTICE that Defendants request oral argument.

Dated: January 31, 2013

WOLFF & SAMSON PC
Attorneys for Defendants
MLS Medical Group LLC and
Mark L. Schwartz, D.O.

By: /s/ A. Ross Pearlson
A. ROSS PEARLSON

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CERTIFICATE OF SERVICE

I, LINDSAY A. SMITH, hereby certify that, upon information and belief, copies of the (1) Notice of Motion to Dismiss Plaintiffs' Amended Complaint, (2) Brief in support; and (3) proposed Order were served by my firm's staff on the following counsel of record via Regular Mail and ECF, the Court's electronic notifying system:

John Robertelli, Esq.
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General Insurance Company and
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By: /s/ Lindsay A. Smith
LINDSAY A. SMITH

Dated: January 31, 2013